IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 26458 of 1995

Between:

P. Venkatanarayana S/o. P. Kesanna
R/o. P. Kowkuntla, Urvakonda,

Anantapur Dist.

..... PETITIONER

AND

Land Acquisition Officer and Spl. Deputy Collector

Office of Spl. Dy. Collector L.A.HLC
Anantapur Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to To issue a writ order or direction more particularly one in the nature of writ of Mandamus directing the respondent to refer the Award No. 80/81 and 81/81 dt. 5-11-81 to the Civil Court under sec. 18 of th L.A.Act for fixing the market value of the Land acquired by respondent

Counsel for the Petitioner:M/SC.KODANDA RAM

Counsel for the Respondent : GP FOR LAND ACQUISITION

The Court made the following :

ORDER:

This writ petition is filed praying for a direction to the respondent to refer Award Nos.80 and 81 of 1981 dated 5-11-1981, in respect of the lands of the petitioner, to the Civil Court under Section 18 of the Land Acquisition Act (for short 'the Act').

The case of the petitioner in brief is that his land in extent of Ac.1-88 cents and Ac.1-55 cents in Sy.Nos.76 and 105-C respectively situate at Mylarampal Village has been acquired by the Government in the year 1979 for the purpose of Penna Ahobilem Balancing Reservoir. After following the due procedure contemplated under the Act, the respondent passed two Awards - Nos.80/81 and 81/81 dated 5-11-1981 whereby an amount of Rs.30,000/- was awarded as compensation for the lands of the petitioner. Petitioner having received the same under protest made a representation dated 14-12-1981 to the respondent by Registered post to refer the matter under Section 18 of the Act to a competent Civil Court and thereafter he claims to have made personal requests also and as the respondent has not responded, the petitioner got issued a legal notice dated 10-2-1995. In reply thereof, the respondent by letter dated 7-4-1995 informed the petitioner that the application is not filed within time, the petitioner received the amount without any protest and therefore his application cannot be considered for referring the matter to the Civil Court. Aggrieved thereby, the present writ petition is filed.

In spite of admitting the matter in the year 1995, no counter affidavit is filed. However, the learned Assistant Government Pleader produced para-wise remarks of the respondent before the court wherein it is stated that the petitioner received the compensation amount of Rs.30,000/- without any protest, the letter dated 14-12-1981 alleged to have been sent by the petitioner by registered post for referring the matter to a Civil Court was not received in the office of the respondent and even

treating the legal notice dated 10-2-1995 as his request for referring the matter, it is a belated one and therefore the matter cannot be referred to the Civil Court.

The learned counsel for the petitioner contends that the copies of acknowledgements filed along with the writ petition show that the letters of the petitioner for referring the matter to the Civil Court has been received in the office of the respondent on 13-12-1981 and 14-12-1981 and therefore, the award being dated 5-11-1981, the application was well within time and the respondent ought to have entertained the same and referred the matter to the Civil Court.

The learned Assistant Government Pleader submits that since the letter dated 14-12-1981 was not received by the respondent, taking the legal notice dated 10-2-1995 as the request of the petitioner, it is a belated request made by the petitioner and therefore the awards in question cannot be referred to a Civil Court and there are no merits in the writ petition.

A perusal of the Xerox copies of the acknowledgements filed along with the writ petition shows that the letters sent by the petitioner were received in the office of the respondent on 13-12-1981 and 14-12-1981. Since the awards are passed on 5-11-1981, it appears from the material placed before the court, that the application for referring the awards to the Civil Court is made within time. Non-filing of counter affidavit to refute the averments made in the writ petition and to substantiate the contention of the respondent, goes to support the case of the petitioner. In the circumstances, I deem it a fit case that the awards passed by the respondent in respect of the petitioner's land can be referred to Civil Court.

The writ petition is accordingly allowed and the respondent is directed to refer Award Nos.80 and 81 of 1981 dated 5-11-1981 to a Civil Court for fixing appropriate compensation in respect of the lands belonging to the petitioner, in accordance with law. No costs.

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14-9-2004

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That Rule Nisi has been made absolute as above

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Fourteenth day of September, Two Thousand and Four.

To

1. Land Acquisition Officer and Spl. Deputy Collector

Office of Spl. Dy. Collector L.A.HLC
Anantapur Dist.

2. Two C.Cs. to the G.P. for Land Acquisition, High Court Buildings (U.U.T)

3. Two C.D. copies